

09-1-00

A

EXPRESS MAIL LABEL NO. EM598711187US

Attorney Docket No. 72255/02659



Box Patent Application
Assistant Commissioner for Patents
Washington, DC 20231



NEW APPLICATION TRANSMITTAL

Transmitted herewith for filing is the patent application of

Inventor(s) : Kenneth W. Batcher

For (title) : PRIORITY-BASED ARBITRATION SYSTEM FOR CONTEXT SWITCHING APPLICATIONS

1. Type of Application

This new application is for a(n):

- ☒ (X) Original (nonprovisional)
- ☐ () Continuation
- ☐ () Continuation-in-part (CIP)
- ☐ () Divisional
- ☐ () Design
- ☐ () Plant

NOTE: If continuation, CIP or divisional, then complete section 2.

CERTIFICATION UNDER 37 C.F.R. 1.10*

(Express Mail label number is mandatory.)

(Express Mail certification is optional.)

I hereby certify that this New Application Transmittal and the documents referred to as attached therein are being deposited with the United States Postal Service on this date August 31, 2000, in an envelope as "Express Mail Post Office to Addressee," mailing Label Number EM598711187US, addressed to the: Assistant Commissioner for Patents, Washington, D.C. 20231.

Valerie A. Milam

Valerie A. Milam
Signature of person mailing paper

WARNING: Certificate of mailing (first class) or facsimile transmission procedures of 37 C.F.R. 1.8 cannot be used to obtain a date of mailing or transmission for this correspondence.

***WARNING:** Each paper or fee filed by "Express Mail" must have the number of the "Express Mail" mailing label placed thereon prior to mailing. 37 C.F.R. 1.10(b).

2. Benefit of Prior U.S. Application(s) (35 U.S.C. 119(e), 120, or 121)

NOTE: If the new application being transmitted is a continuation, CIP or divisional, of a parent case, or where the parent case is an International Application which designated the U.S., or the benefit of a prior provisional application is claimed, then check the following item and complete section as follows.

☐ The new application being transmitted claims the benefit of prior U.S. application(s).

2.1 Relate Back

WARNING: If an application claims the benefit of the filing date of an earlier filed application under 35 U.S.C. 120, 121 or 365(c), the 20-year term of that application will be based upon the filing date of the earliest U.S. application that the application makes reference to under 35 U.S.C. 120, 121 or 365(c). (35 U.S.C. 154(a)(2) does not take into account, for the determination of the patent term, any application on which priority is claimed under 35 U.S.C. 119, 365(a) or 365(b).) For a CIP application, applicant should review whether any claim in the patent that will issue is supported by an earlier application and, if not, the applicant should consider canceling the reference to the earlier filed application. The term of a patent is not based on a claim-by-claim approach. See Notice of April 14, 1995, 60 Fed Reg. 20,195, at 20,205.

(complete the following, if applicable)

Amend the specification by inserting, before the first line, the following sentence:

A. 35 U.S.C. 120, 121 and 365(c)

- ☐ "This is a
- ☐ continuation
 - ☐ continuation-in-part
 - ☐ divisional

of copending application(s) serial number filed on ."

☐ International Application_____ filed on_____ and which designated the U.S."

Note: The proper reference to a prior filed PCT application that entered the U.S. national phase is the U.S. serial number and the filing date of the PCT application that designated the U.S. Moreover, (1) Where the application being transmitted adds subject matter to the International Application, then the filing can be as a continuation-in-part or (2) if it is desired to do so for other reasons then the filing can be as a continuation.

☐ "The nonprovisional application designated above, namely application no._____, filed_____, claims the benefit of U.S. Provisional Application(s) No(s).:

{list application no(s). and filing date(s)}

B. 35 U.S.C. 119(e) (Provisional Application)

☐ "This application claims the benefit of U.S. Provisional Application(s) No(s).:

{list application no(s). and filing date(s)}

2.2 Relate Back—35 U.S.C. 119 Priority Claim for Prior Application

The prior U.S. application(s), including any prior International Application designating the U.S., identified above in item 2.1(A), in turn itself claim(s) foreign priority(ies) as follows:

{list country, application no(s). and filing date(s)}

The certified copy(ies) has (have)

☐ been filed on____, in prior application serial no.____, which was filed on____.

☐ is (are) attached.

2.3 Maintenance of Copendency of Prior Application

NOTE: The PTO finds it useful if a copy of the petition filed in the prior application extending the term for response is filed with the papers constituting the filing of the continuation application. Notice of November 5, 1985 (1060 O.G. 27).

A. ☐ Extension of time in prior application

(This item must be completed and the papers filed in the prior application if the period set in the prior application has run.)

☐ A petition, fee and response extends the term in the pending **prior** application until Extension of_____.

☐ A **copy** of the petition filed in prior application is attached.

B. ☐ Conditional Petition for Extension of Time in Prior Application

(complete this item, if previous item not applicable)

☐ A conditional petition for extension of time is being filed in the pending **prior** application.

☐ A **copy** of the conditional petition filed in the prior application is attached.

2.4 Further Inventorship Statement Where Benefit of Prior Application(s) Claimed

(complete applicable item A, B and/or C below)

A. ☐ This application discloses and claims only subject matter disclosed in the prior application whose particulars are set out above, and the inventor(s) in this application are

☐ the same.

☐ less than those named in the prior application. It is requested that the following inventor(s)

identified for the prior application be deleted:

{ type name(s) of inventor(s) to be deleted }

- B. ☐ This application discloses and claims additional disclosure by amendment and a new declaration or oath is being filed. With respect to the prior application, the inventor(s) in this application are

☐ the same.

☐ the following additional inventor(s) have been added:

(type name(s) of inventor(s) to be added)

- C. ☐ The inventorship for all the claims in this application are

☐ the same.

☐ not the same. An explanation, including the ownership of the various claims at the time the last claimed invention was made

☐ is submitted.

☐ will be submitted.

2.5 Abandonment of Prior Application (if applicable)

- ☐ Please abandon the prior application at a time while the prior application is pending, or when the petition for extension of time or to revive In that application is granted, and when this application is granted a filing date, so to make this application copending with said prior application.

NOTE: According to the Notice of May 13, 1983 (103, TMOG 6-7), the filing of a continuation or continuation-in-part application is a proper response with respect to a petition for extension of time or a petition to revive and should include the express abandonment of the prior application conditioned upon the granting of the petition and the granting of a filing date to the continuing application.

2.6 Petition for Suspension of Prosecution for the Time Necessary to File an Amendment

NOTE: Where it is possible that the claims on file will give rise to a first action final for this continuation application and for some reason an amendment cannot be filed promptly (e.g, experimental data is being gathered) it may be desirable to file a petition for suspension of prosecution for the time necessary.

(check the next item, if applicable)

- ☐ There is provided herewith a Petition To Suspend Prosecution for the Time Necessary to File An Amendment (New Application Filed Concurrently)

2.7 Small Entity (37 CFR § 1.28(a))

- ☐ Applicant has established small entity status by the previous submission of a statement in prior application serial no. ____ on ____.
- ☐ A copy of the statement previously filed is included.

WARNING: See 37 CFR § 1.28(a).

2.8. Notification in Parent Application of this Filing

- ☐ A notification of the filing of this
(check one of the following)

- ☐ continuation
☐ continuation-in-part
☐ divisional

is being filed in the parent application, from which this application claims priority under 35 U.S.C. § 120.

2.9 Incorporation by Reference

- ☐ the entire disclosure of the prior application, from which a copy of the oath or declaration is supplied, is considered to be part of the disclosure of the accompanying application and is hereby incorporated by reference therein.

3. Papers Enclosed Which are Required for Filing Date Under 37 CFR 1.53(b) (Regular) or 37 CFR 1.153 (Design) Application

- (X) 12 Pages of specification
(X) 5 Pages of claims
(X) 1 Pages of Abstract
(X) 2 Sheets of drawing
(X) formal
() informal

4. Additional papers enclosed

- ☐ Amendment to claims:

- ☐ **Cancel** in this application claims ____ before calculating the filing fee. (At least one original independent claim must be retained for filing purposes).

☐ **Add** the claims shown in the attached amendment. (Claims added have been numbered consecutively following the highest numbered original claims).

- ☐ Preliminary Amendment
- ☐ Information Disclosure Statement (37 C.F.R. 1.98)
- ☐ Form PTO-1449
- ☐ Citations
- ☐ Declaration of Biological Deposit
- ☐ Special Comments
- ☐ Other

5. Declaration or oath (including power of attorney)

☒ ENCLOSED.

☒ Newly executed (original or copy)

☐ Copy from prior application No. 0 / (37 CFR 1.63(d)- continuation/divisional)

☐ DELETION OF INVENTOR(S) - signed statement attached deleting inventor(s) named in the above-noted prior application (37 CFR 1.63(d) and 1.33(b))

Declaration or Oath executed by: (check **all** applicable boxes)

☒ inventor(s).

☐ legal representative of inventor(s). 37 CFR 1.42 or 1.43

☐ joint inventor or person showing a proprietary interest on behalf of inventor who refused to sign or cannot be reached.

☐ this is the petition required by 37 CFR 1.47 and the statement required by 37 CFR 1.47 is also attached. See item 13 below for fee.

☐ NOT ENCLOSED.

☐ Application is made by a person authorized under 37 CFR 1.41(c) on behalf of all the above named inventor(s). The declaration or oath, along with the surcharge required by 37 CFR 1.16(e) can be filed subsequently.

☐ Showing that the filing is authorized. (Not required unless called into question. 37 CFR 1.41(d)).

6. Inventorship Statement

WARNING: If the named inventors are each not the inventors of all the claims an explanation, including the ownership of the various claims at the time the last claimed invention was made, should be submitted.

The inventorship for all the claims in this application are:

☐ The same

or

☐ Not the same. An explanation, including the ownership of the various claims at the time the last

claimed invention was made,
☐ is submitted
☐ will be submitted.

7. Language

- ☒ English
☐ Non-English
☐ the attached translation is a verified translation. 37 CFR 1.52(d).

8. Assignment

☒ An assignment of the invention to Cisco Technology, Inc.

☒ is attached. (A separate "ASSIGNMENT COVER LETTER ACCOMPANYING NEW PATENT APPLICATION" is also attached.)

☐ will follow.

☐ The prior application is assigned of record to __ (copy attached).

9. Certified Copy - Foreign Priority Claim Under 35 U.S.C. 119

Certified copy(ies) of application(s)

{list country, application no(s). and filing date(s)}

from which priority is claimed

- ☐ is (are) attached.
☐ will follow.

NOTE: The foreign application forming the basis for the claim for priority **must** be referred to in the **oath or declaration**. 37 CFR 1.55(a) and 1.63.

NOTE: This item is for any foreign priority for which the application being filed directly relates. If any parent U.S. application or International Application form which this application claims benefit under 35 U.S.C. 120 is itself entitled to priority from a prior foreign application then complete item 17 on the ADDED PAGES FOR NEW APPLICATION TRANSMITTAL WHERE BENEFIT OR PRIOR U.S. APPLICATION(S) CLAIMED.

10. Fee Calculation (37 C.F.R. 1.16)

A. ☒ Regular Application

CLAIMS AS FILED				
	Number Filed	Number Extra	Rate	Basic Fee \$690.00

Total Claims (37 CFR 1.16(c))	26 - 20 =	6	x \$ 18.00	\$ 108.00
Independent Claims (37 CFR 1.16(b))	3 - 3 =	0	x \$ 78.00	\$ 0.00
Multiple dependent claim(s), if any (37 CFR 1.16(d))	0	0	+ \$ 260.00	\$ 0.00

- () Amendment canceling extra claims enclosed.
 () Amendment deleting multiple dependencies enclosed.
 () Fee for extra claims is not being paid at this time.

NOTE: If the fees for extra claims are not paid on filing they must be paid or the claims canceled by amendment, prior to the expiration of the time period set for response by the Patent and Trademark Office in any notice of fee deficiency. 37 CFR 1.16(d).

Filing Fee Calculation \$ 798.00

B. () Design Application
 (\$330.00 - 37 CFR 1.16(f))

Filing Fee Calculation \$

11. Small Entity Statement(s)

- () Verified Statement(s) that this is a filing by a small entity under 37 CFR 1.9 and 1.27 is(are) attached.

Filing Fee Calculation (50% of A or B above) \$

NOTE: Any excess of the full fee paid will be refunded if a verified statement and a refund request are filed within 2 months of the date of timely payment of a full fee. 37 CFR 1.28(a).

12. Request for International-Type Search (37 C.F.R. 1.104(d))

- () Please prepare an international-type search report for this application at the time when national examination on the merits takes place.

13. Fee Payment Being Made At This Time

- () NOT ENCLOSED.
 () No filing fee is to be paid at this time. (This and the surcharge required by 37 CFR 1.16(e) can be paid subsequently.)

(X) ENCLOSED

(X) Filing fee \$ 798.00

(X) Recording assignment

(\$40.00; 37 CFR 1.21(h)(1)) \$ 40.00

() petition fee for filing by other than all the inventors or person on behalf of the inventor where inventor refused to sign or cannot be reached. (\$130.00; 37 CFR 1.47 & 1.17(h))

\$ _____

() for processing an application with a specification in a non-English language. (\$130.00 37 CFR 1.52(d) and 1.17(k))

\$ _____

() processing and retention fee. (\$130.00; 37 CFR 1.53(d) and 1.21(l))

\$ _____

() Fee for international-type search report. (\$40.00; 37 CFR 1.21(e))

\$ _____

Total fees enclosed

\$ 838.00

14. Method of Payment of Fees

(X) Check in the amount of \$ 838.00

() Charge Account No. 50-0902 in the amount of \$ A duplicate of this transmittal is attached.

15. Authorization to Charge Additional Fees

WARNING: If no fees are to be paid on filing the following items should **not** be completed.

WARNING: Accurately count claims, especially multiple dependent claims, to avoid unexpected high charges, if extra claim charges are authorized.

(X) The Commissioner is hereby authorized to charge the following additional fees by this paper and during the entire pendency of this application to Account No. 50-0902, **identifying our Attorney Docket No. 72255/02659.**

(X) 37 CFR 1.16(a), (f), or (g) (filing fees)

(X) 37 CFR 1.16(b), (c) and (d) (presentation of extra claims)

(X) 37 CFR 1.17 (application processing fees)

() 37 CFR 1.16(e) (surcharge for filing the basic filing fee and/or declaration on a date later than the filing date of the application)

() 37 CFR 1.17(a)(1)-(5) (extension fees pursuant to 37 CFR 1.136(a))

() 37 CFR 1.18 (issue fee at or before mailing Notice of Allowance, pursuant to 37 CFR 1.311(b))

16. Instruction As To Overpayment

- ☐ Credit Account No. 50-0902, identifying our Attorney Docket No. _____.
☒ Refund

17. Incorporation by reference of added pages

☒ The following pages are incorporated by reference:

- ☒ "Assignment Cover Letter Accompanying New Application"; number of pages added 3
☐ Added Pages For Papers Referred To In Item 4 Above; number of pages added _____
☐ Plus added pages deleting names of inventor(s) named in prior application(s) who is/are no longer inventor(s) of the subject matter claimed in this application; number of pages added _____.

☒ no further pages form a part of this Transmittal. The transmittal ends with this page.

Date:

August 31, 2000

Michael A. Jaffe
Michael A. Jaffe
Registration No. 36,326

ARTER & HADDEN LLP
1100 Huntington Building
925 Euclid Avenue
Cleveland, Ohio 44115-1475
Phone: (216) 696-3394
Fax: (216) 696-2645